

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Farn	§	
	§	Group Art Unit: 2173
Serial No. 10/782,498	§	
	§	Examiner: Hailu, Tadesse
Filed: February 19, 2004	§	
	§	Confirmation No.: 5645
For: Method and System for Editing	§	
Column Oriented Programming	§	
Language Statements	§	

35525

PATENT TRADEMARK OFFICE
CUSTOMER NUMBER

Commissioner for Patents
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REPLY BRIEF (37 C.F.R. 41.41)

This Reply Brief is submitted in response to the Examiner's Answer mailed on July 1, 2010.

No fees are believed to be required to file a Reply Brief. If any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447.

RESPONSE TO EXAMINER'S ANSWER

The Examiner's Answer presents new grounds of rejection. The Examiner has rejected claims 22-28 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Examiner's Answer dated July 1, 2010, pages 6-9. This rejection is respectfully traversed.

The Examiner states:

The claim recites the following means plus function limitation: "*means in the recordable type medium for identifying a template description for at least one of the plurality of column oriented programming language statements, wherein the template description defines at least one statement type, and wherein the at least one of the plurality of column oriented programming language statements is selectable in a first pane of a plurality of panes on a graphical user interface.*" This limitation invokes 35 USC § 112, ¶ 6 because it meets the 3-prong analysis set forth in MPEP 2181 as it recites the phrase "means for" or "step for" (or appellant identifies the limitation as a means (or step) plus function limitation in the appeal brief) and the phrase is modified by functional language and it is not modified by sufficient structure, material, or acts for performing the recited function. Also see *Altiris Inc. v. Semantec Corp.*, 318 F.3d 1363, 1375 (Fed. Cir. 2003). 35 USC § 112, ¶ 6, requires such claim to be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof. "If one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section § 112." *In re Donaldson Co.*, 16 F.3d 1189, 1195, 29 USPQ 1845, 1850 (Fed. Cir. 1994)(in banc.). For a computer-implemented means-plus-function claim limitation that invokes 35 USC § 112, ¶ 6, the corresponding structure is required to be more than simply a general purpose computer. *Aristocrat Technologies, Inc. v. International Game Technology*, 521 F.3d 1328, 1333, 86 USPQ2d 1235, 1239-40 (Fed. Cir. 2008). The corresponding structure for a computer-implemented function must include the algorithm as well as the general purpose computer. *WMS Gaming, Inc. v. International Game Technology*, 184 F.3d 1339, 51 USPQ2d 1385 (Fed. Cir. 1999). The written description must at least disclose the algorithm that transforms the general purpose microprocessor to a special purpose computer programmed to perform the claimed function. *Aristocrat*, 521 F.3d at 1338, 86 USPQ2d at 1242. In the instant application, the following portions of the specification and drawings may appear to describe the corresponding structure for performing the claimed function: Figures 4 and 5; Specification pages 7 and 22-24.

However, the specification and drawings do not disclose sufficient corresponding structure, material or acts for performing the claimed function. It appears that the claimed means is broadly described on pages 7 and 22-24 of the specification and broadly shown in figures 4 and 5.

However the specification does not specifically describe how the recited function is performed. Specifically, the specification does not disclose one or more specific algorithms for implementing the claimed means on a machine. Therefore, Appellants have failed to adequately describe sufficient structure for performing the claimed function.

More specifically, the specification in pages 7 and 22-24 describes the content of the template and indicates the template description defines the statement type. The specification also provides the function in detail and indicates that the at least one of the plurality of column oriented programming language statements is selectable in a first pane of a plurality of panes on a graphical user interface.

While the specification details the content of the template description or the template string, the specification fails to indicate what means is utilized to do the identifying function of the template description. The specification also fails to describe the details of the specific algorithm that actually performs the identifying function of the template description, i.e., means for identifying the template description.

Claims 23-28 depend from claim 22 and are rejected for the reasons set forth in connection with the rejection of claim 22 above.

Examiner's Answer dated July 1, 2010, pages 6-9.

Applicant respectfully disagrees. The Patent Act permits claim limitations written as a "means or step for performing a specified function." 35 U.S.C. 112 ¶ 6. For a means-plus function claim to satisfy the definiteness requirement, the written description must clearly link or associate structure to the claimed function. *Biomedino, LLC v. Waters Techs. Corp.*, 490 F.3d 946, 950, 83 USPQ2d 1118 (Fed. Cir. 2007). Whether the written description adequately sets forth the structure corresponding to the claimed function must be considered from the perspective of a person skilled in the art. *Intel Corp. v. VIA Techs., Inc.*, 319 F.3d 1357, 1365-66, 65 USPQ2d 1934 (Fed. Cir. 2003). "The question is not whether one of skill in the art would be capable of implementing a structure to perform the function, but whether that person would understand the written description itself to disclose such a structure." *Tech. Licensing Corp. v. Videotek, Inc.*, 545 F.3d 1316, 1338 88 USPQ2d 1865 (Fed. Cir. 2008). "While corresponding structure need not include all things necessary to enable the claimed invention to work, it must include all structure that actually performs the recited function." *Default Proof Credit Card Sys. v. Home Depot U.S.A., Inc.*, 412 F.3d 1291, 1298, 75 USPQ2d 1116 (Fed. Cir. 2005).

Claim 22 recites:

An article having a recordable type medium being usable over a network, and having means embedded in the recordable type medium for directing a data processing system to edit a plurality of column oriented programming language statements presented to a user on a display screen, the article comprising:

means in the recordable type medium for identifying a template description for at least one of the plurality of column oriented programming language statements, wherein the template description defines at least one statement type, and wherein the at least one of the plurality of column oriented programming language statements is selectable in a first pane of a plurality of panes on a graphical user interface; and

means in the recordable type medium for displaying one or more editable fields corresponding to the at least one statement type on a second pane of the plurality of panes on the graphical user interface, wherein the graphical user interface is used for editing the plurality of column oriented programming language statements individually, and wherein the graphical user interface is adapted to receive content for the one or more editable fields from the user to define the at least one of the plurality of column oriented programming language statements.

Applicant's Specification provides:

In addition, *program editors typically assist programmers with statement syntax and object identification, etc.*

One form of computer program editor is the line editor. Line editors for programming languages such as Report Program Generator ("RPG") and Data Description Specification ("DDS") are available from the International Business Machines Corporation ("IBM"). In general, line editors are used for editing column based or oriented programming language statements. Typically, each such programming language statement occupies a single editable line (e.g., 80 columns or characters in length). In addition, each programming statement type has a fixed format consisting of one or more fields, where each field begins at a fixed column number and occupies a specific number of contiguous columns

Specification, page 1, line 18 to page 2, line 2 (emphasis added).

FIG. 1 is a block diagram illustrating an exemplary data processing system **100** adapted for implementing an embodiment of the invention. *The data processing system 100 includes an input device 110, a central processing unit or CPU 120, memory 130, a display 140, and an interface 150.* The input device **110** may include a keyboard, mouse, trackball, remote control, or similar device. *The CPU 120 may include dedicated coprocessors and memory devices.* The memory **130** may include RAM, ROM, or disk devices. The display **140** may include a computer screen, terminal device, or a hardcopy producing output device such as a printer or plotter. And, the interface **150** may include a network connection

including an Internet connection. The data processing system **100** is adapted to perform program editing in accordance with the present invention.

Specification page 5, lines 12-25 (emphasis added).

The data processing system **100** includes *computer executable programmed instructions for directing the system **100** to implement the embodiments of the present invention.* The programmed instructions may be embodied in one or more software modules **170** resident in the memory **130** of the data processing system **100**. Alternatively, the programmed instructions may be embodied on a computer readable medium (such as a CD disk or floppy disk) which may be used for transporting the programmed instructions to the memory **130** of the data processing system **100**. Alternatively, the programmed instructions may be embedded in a computer-readable, signal-bearing medium that is uploaded to a network by a vendor or supplier of the programmed instructions, and this signal-bearing medium may be downloaded to the data processing system **100** from the network by end users or potential buyers.

Specification, page 7, lines 4-18 (emphasis added).

Each page **403**, **404** includes the following information pertaining to one statement type: a page identifier **407** (e.g., "DDS_Display_File_Specification"); a specification label **408**, which is a key to a national language translated text string (e.g., "S1_Display_File_Specification"); a *specification help identifier* **409** (e.g., "HDRDSPDDS"); a specification template string **410** (e.g., "####A"), which will be described in more detail below; and, a set of field descriptions **411**.

Each field description **411** includes the following information: a *field identifier* **412** (e.g., "Use"); a field label **413** (e.g., "S2_Use"), which is a key to a national language translated text string; a field position **414** (e.g., "38"); a field length **415** (e.g., "1"); an optional field help identifier **416** (e.g., "25635"); an optional field alignment option **417** (e.g., "right"); an optional set of choices **418**; and, an optional editable option **419** (e.g., "true") for choice fields which indicates whether a value can be specified that is not one of the defined choices.

Each choice **418** includes the following information: a *choice identifier* **420** (e.g., "G"); a choice label **421** (e.g., "G"), which is national language independent; and, an optional help identifier **422** (e.g., "26528").

Specification, page 15, line 15 to page 16, line 7 (emphasis added).

*The following process is used to assemble a new statement **270** from the field entry widgets **224**, **225**, the original statement **203**, and the template string **410**:* (a) an empty string the length of the page group's **420** maximum statement character length ("maxlinelength") **406** is created; for each # character **510**, **520** in the template string **410**, the corresponding character **511**, **521** in the original string **203** is copied to the new string **270**, **513**, **523**; for each other character **530**, **540** in

the template string **410**, the character is copied into the new string **270**; and, for each field **222**, the field value **224**, **225** is adjusted and then placed into the new string **270** at the location specified by the field location **414**.

Specification 17, lines 17-30 (emphasis added).

While this invention is primarily discussed as a method, *a person of ordinary skill in the art understands that the apparatus discussed above with reference to a data processing system may be programmed to enable the practice of the method of the invention*. Moreover, an article of manufacture for use with a data processing system, such as a pre-recorded storage device or other similar computer readable medium including program instructions recorded thereon may direct the data processing system to facilitate the practice of the method of the invention. It is understood that such apparatus and articles of manufacture also come within the scope of the invention.

Specification page 23 line 24 through page 24 line 5 (emphasis added).

Applicant's specification provides that "The data processing system **100** includes computer executable programmed instructions for directing the system **100** to implement the embodiments of the present invention." Specification, page 7, lines 4-8 (emphasis added). Additionally, "a person of ordinary skill in the art understands that the apparatus discussed above with reference to a data processing system may be programmed to enable the practice of the method of the invention." Specification page 23, lines 24-28. Thus, Applicant has specifically provided the structure of a data processing system and programmable instructions for implementing the embodiments of the invention.

Further, Applicant has specifically provided that "program editors typically assist programmers with statement syntax and object identification." Specification, page 1, lines 18-20. A template is an object. Thus, Applicant has also disclosed program editors known to those skilled in the art which enable object identification. Applicant has further described different forms of program editors as well as different programming languages that may be used. See Specification, page 1, line 21 to page 2, line 2. Applicant has also disclosed a number of identifiers and template strings to be used in cooperation with the editor disclosed in the specification. See e.g. Specification page 15, line 15 to page 16, line 7. The identifiers and template strings are used to assemble a new statement. See Specification 17, lines 17-20. Use of an identifier or a template string to assemble a new statement inherently requires identification of

a template. Thus, Applicant has also specifically disclosed algorithms to implement the claimed functions on the recited structure.

For these reasons, sufficient disclosure has been provided in the Specification of the Application to enable one of ordinary skill in the art to understand that the written description discloses the structure to perform the functions of the claim. Claims 22-28 are definite under 35 U.S.C. §112, second paragraph.

Therefore, Applicant respectfully submits that the 35 U.S.C. §112, second paragraph, rejection of claims 22-28 has been overcome.

CONCLUSION

As shown above and previously described in the Appeal Brief filed December 7, 2007, the Examiner has failed to state valid rejections against any of the claims. Therefore, Applicant requests that the Board of Patent Appeals and Interferences reverse the rejections.

DATE: July 27, 2010

Respectfully submitted,

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